

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE KYJEN COMPANY, LLC,
Plaintiff,

-v.-

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS, AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE A TO THE
COMPLAINT,
Defendants.

23 Civ. 00612 (JHR)

AMENDED MEMORANDUM
OPINION & ORDER

JENNIFER H. REARDEN, District Judge:

On May 18, 2023, the Court entered a default judgment against the Defendants in this action who were not otherwise voluntarily dismissed by Plaintiff (the “Defaulting Defendants”).¹ See ECF Nos. 86, 94. On May 19, 2023, the Court referred the matter to Magistrate Judge Sarah Netburn for an inquest as to damages. See ECF No. 83.

Before the Court is the Report and Recommendation of Judge Netburn dated March 4, 2024 (the “Report”), recommending that the Court award Plaintiff (1) \$100,000 for each Defaulting Defendant that engaged in willful trademark counterfeiting and infringement under the Lanham Act; (2) \$250 for each Defaulting Defendant that engaged in design patent

¹ The Defaulting Defendants, as identified in Plaintiff’s Fourth Amended Schedule A (ECF Nos. 91-1, 91-5) and in the attached chart (*see infra*), are as follows: AMZJIANJIAN, DLYshopping, fangfangxuan168, fuqiangzhang store, GLINZDz, GYANF, Huayuan Supplies, Incyj, Jingbo, jiujianglinfudianzishangwuyouxiangongsi, Juanking, lambo888, LAN-YAN, Luohe Dichu Trading Co., Ltd., NZSMYXGS, RSiug Ltd., tongshengyao, wenhangliyunduishangmaoyouxiangongsi888, jspet1, lumber21, petrich, rubibegone, jasgood18, Caluo E-commerce, chengdujianghubianshang, Happy date, hefeizaiheibaihuoyouxiangongsi, Lsgrael, NEGOO STORE, putianshichengxiangquqirongmaoyiyouxiangongsi, SAJAR TRADING, ShanXiFaZeKeJiYouXianGongSi, Waykada, xuanchengxuanfanqiyeguanliyouxiangongsi, Cwhjun_kk, Deborahllk, Lovely TianTian, lusonghong1740, Prague jewelry shop, taotaoshouji, and ZeLing991.

infringement under the Patent Act; and (3) post-judgment interest. *See* ECF No. 106. The Report notified the parties that they “shall have 14 days from the service of this Report and Recommendation to file written objections.” *Id.* at 15. The Report also cautioned that “[t]he failure to file timely objections will waive those objections for purposes of appeal.” *Id.* No party filed objections to the Report.

For the reasons set forth below, the Court adopts the Report in its entirety.

DISCUSSION²

In reviewing a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Ruiz v. Citibank, NA.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009)); *see also Schiff v. Yayi Int’l Inc.*, No. 15 Civ. 359 (VSB), 2020 WL 3893345, at *2 (S.D.N.Y. July 9, 2020) (“When neither party submits an objection to a report and recommendation, or any portion thereof, a district reviews the report and recommendation for clear error.”). As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Netburn’s Report reveals no facial error in its conclusions. The Report is therefore adopted in its entirety.

Furthermore, “[b]ecause the Report explicitly states that failure to object within fourteen days will result in a waiver of objections and will preclude appellate review, the parties’ failure to object operates as a waiver of appellate review.” *Saadeh v. Kagan*, No. 20 Civ. 1945 (PAE),

² The Court incorporates by reference the summary of the facts provided in the Report.

2022 WL 624554, at *1 (S.D.N.Y. Mar. 3, 2022) (citation omitted); *see also Stevens v. Duquette*, No. 22-1571, 2024 WL 705954, at *1 (2d Cir. Feb. 21, 2024) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.” (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))).

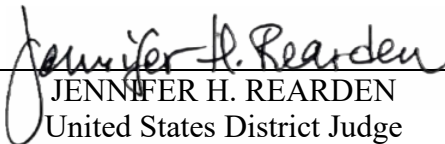
CONCLUSION

For the foregoing reasons, the Court adopts Judge Netburn’s Report and Recommendation in full. In accordance with the attached chart, Plaintiff is awarded a total of \$3,501,500 in statutory damages: \$100,000 for each of the 35 Defaulting Defendants that engaged in willful trademark counterfeiting and infringement under the Lanham Act, and \$250 for each of the six Defaulting Defendants that engaged in design patent infringement under the Patent Act. Plaintiff is also entitled to post-judgment interest calculated at the statutory rate prescribed by 28 U.S.C. § 1961.

Upon the entry of judgment, the Clerk of Court is directed to terminate all pending motions, adjourn all remaining deadlines, and close this case.

SO ORDERED.

Dated: March 20, 2024
New York, New York


JENNIFER H. REARDEN
United States District Judge

Defaulting Defendants

| Doe No. | Defendant Seller | Statutory Damages |
|----------------|---|--------------------------|
| 2. | AMZJIANJIAN | \$100,000.00 |
| 8. | DLYshopping | \$100,000.00 |
| 9. | fangfangxuan168 | \$100,000.00 |
| 11. | fuqiangzhang store | \$100,000.00 |
| 13. | GLINZDz | \$100,000.00 |
| 15. | GYANF | \$100,000.00 |
| 17. | Huayuan Supplies | \$100,000.00 |
| 18. | Incyj | \$100,000.00 |
| 20. | Jingbo | \$100,000.00 |
| 21. | jiujianglinfudianzishangwuyouxiangongsi | \$100,000.00 |
| 22. | Juanking | \$100,000.00 |
| 23. | lambo888 | \$100,000.00 |
| 24. | LAN-YAN | \$100,000.00 |
| 26. | Luohe Dichu Trading Co., Ltd. | \$100,000.00 |

| Doe No. | Defendant Seller | Statutory Damages |
|----------------|---|--------------------------|
| 28. | NZSMYXGS | \$100,000.00 |
| 31. | RSiug Ltd. | \$100,000.00 |
| 38. | tongshengyao | \$100,000.00 |
| 39. | wenhangliyunhuishangmaoyouxiangongsi888 | \$100,000.00 |
| 49. | jspet1 | \$100,000.00 |
| 50. | lumber21 | \$100,000.00 |
| 52. | petrich | \$100,000.00 |

| Doe No. | Defendant Seller | Statutory Damages |
|----------------|-------------------------|--------------------------|
| 53. | rubibegone | \$100,000.00 |
| | | |
| 65. | jasgood18 | \$100,000.00 |
| | | |

| Doe No. | Defendant Seller | Statutory Damages |
|----------------|---|--------------------------|
| 82. | Caluo E-commerce | \$100,000.00 |
| 83. | chengdujianghubianshang | \$100,000.00 |
| | | |
| 87. | Happy date | \$250.00 |
| | | |
| 89. | hefeizaiheibaihuoyouxiangongsi | \$100,000.00 |
| | | |
| 91. | Lsgrael | \$100,000.00 |
| | | |
| 93. | NEGOO STORE | \$100,000.00 |
| 94. | putianshichengxiangquqirongmaoyiyouxiangongsi | \$100,000.00 |
| 95. | SAJAR TRADING | \$100,000.00 |
| 96. | ShanXiFaZeKeJiYouXianGongSi | \$100,000.00 |
| | | |
| 99. | Waykada | \$100,000.00 |
| 100. | xuanchengxuanfanqiyeguanliyouxiangongsi | \$100,000.00 |
| | | |
| 102. | Cwhjun_kk | \$250.00 |
| | | |
| 104. | Deborahllk | \$100,000.00 |
| | | |
| 108. | Lovely TianTian | \$250.00 |

| Doe No. | Defendant Seller | Statutory Damages |
|----------------|-------------------------|--------------------------|
| 109. | lusonghong1740 | \$250.00 |
| | | |
| 113. | Prague jewelry shop | \$250.00 |
| 114. | taotaoshouji | \$250.00 |
| | | |
| 116. | ZeLing991 | \$100,000.00 |
| | | |